

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

OF

JAMES M. McDANIEL

DECEMBER 19, 2008



DOCKET NO. 2008-314-C

**Application of New Dimension Communications,
Incorporated d/b/a Fast Phones for Certification
as an Eligible Telecommunications Carrier**

DIRECT TESTIMONY OF JAMES M. MCDANIEL

FOR

THE OFFICE OF REGULATORY STAFF

DOCKET NO. 2008-314-C

**IN RE: APPLICATION OF NEW DIMENSION COMMUNICATIONS,
INCORPORATED DBA FAST PHONES FOR CERTIFICATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
OCCUPATION.**

A. My name is James M. McDaniel, and my business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina Office of Regulatory Staff ("ORS") as a Program Manager in the Telecommunications Department.

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND
EXPERIENCE.**

A. I received a Bachelor of Science degree in Engineering from the University of South Carolina. I worked for the Public Service of Commission of South Carolina ("Commission" or "PSC") as an associate engineer and chief of the telecommunications area in the Utilities Department for approximately 28

1 years. In September 2004, I became employed by the Office of Regulatory Staff
2 in the Telecommunications Department as a Program Manager.

3 **Q. HOW LONG HAVE YOU PROVIDED REGULATORY OVERSIGHT TO**
4 **TELECOMMUNICATIONS UTILITIES?**

5 A. I have over 30 years experience in the regulation of the
6 telecommunications industry in South Carolina.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
8 **PROCEEDING?**

9 A. The purpose of my testimony is to set forth the ORS staff findings relative
10 to ORS's review of New Dimension, Inc. dba Fast Phones' ("Fast Phones" or
11 "Company") application for Eligible Telecommunications Carrier ("ETC")
12 designation within the State of South Carolina.

13 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**
14 **TESTIMONY?**

15 A. Yes, my testimony details ORS's findings and comments.

16 **Q. PLEASE EXPLAIN HOW YOU COMPILED INFORMATION FOR YOUR**
17 **TESTIMONY.**

18 A. I compared the information provided in the company application and
19 direct testimony with the requirements contained in the Commission's regulations
20 pertaining to ETC designation, which became effective on May 23, 2008.
21 Additionally, I reviewed the filings and records of the Company maintained in the
22 offices of ORS.

1 **Q. PLEASE PROVIDE AN OVERVIEW OF YOUR REVIEW OF THE**
2 **APPLICATION OF FAST PHONES.**

3 A. Fast Phones' application was filed with the Commission on August 14,
4 2008. ORS's review of this application identified that Fast Phones is seeking
5 ETC designation in South Carolina in the areas served by BellSouth
6 Telecommunications, Inc. d/b/a AT&T South Carolina. Fast Phones is seeking
7 low income support for the purpose of providing Lifeline and Link Up benefits to
8 its eligible customers.

9 **Q. IS FAST PHONES REQUESTING ETC DESIGNATION FOR THE**
10 **PURPOSE OF RECEIVING FEDERAL HIGH COST UNIVERSAL**
11 **SERVICE FUND SUPPORT?**

12 A. No. According to its application, Fast Phones is not seeking high cost
13 support from the federal Universal Service Fund.

14 **Q. DOES THE APPLICATION FILED BY FAST PHONES COMPLY WITH**
15 **COMMISSION REGULATIONS FOR ETC DESIGNATION?**

16 A. No. From my review of this application and the Company's direct
17 testimony, it appears that Fast Phones only addressed portions of the
18 Commission's requirements for ETC designation, and failed to demonstrate
19 compliance with key provisions of the Commission's regulations. It appears that
20 Fast Phones relied heavily on the Federal Communications Commission ("FCC")
21 requirements for eligible telecommunications carrier's designation. While this
22 practice may have been satisfactory for applications filed prior to the approval by

1 the South Carolina General Assembly of this Commission's ETC designation
2 regulations, these Commission regulations (26 S.C. Code Regs. 103-690 C (a)
3 (1) (C)) are now in effect and applications for ETC designation filed after May
4 23, 2008, must satisfy all Commission requirements.

5 Fast Phones' application for ETC designation did not contain the
6 following information which is required by 26 S.C. Code Regs. 103-690 C (a) (1):

- 7 1) A two-year plan describing the carrier's plans for advertising and
8 outreach programs for identifying, qualifying and enrolling eligible
9 participants in the Lifeline and Link Up program (103-690 C (a) (1)
10 (C));
- 11 2) Demonstration that it will satisfy applicable consumer protection and
12 service quality standards (103-690 C (a) (3));
- 13 3) Affidavit which acknowledges the FCC may require the carrier to
14 provide equal access to long distance carriers (103-690 C (a) (5));
- 15 4) Affidavit that it does offer or will offer the services that are supported
16 by the universal service support mechanisms by using its own facilities
17 or a combination of its own facilities and resale of another carrier's
18 services (103-690 C (a) (6)); and
- 19 5) Affidavit certifying that it does or will advertise in a media of general
20 distribution the availability of supported services, including Lifeline
21 services and the applicable charges (103-690 C (a) (7)).

1 **Q. AFTER FAST PHONES FILED ITS APPLICATION WITH THE**
2 **COMMISSION, DID THE COMPANY PROVIDE ANY OF THE**
3 **REQUIRED AFFIDAVITS, CERTIFICATIONS, DEMONSTRATIONS OR**
4 **PLANS TO ORS?**

5 A. Yes, but Fast Phones still has not fulfilled all necessary requirements.
6 In Exhibit B to the Company's direct testimony, Fast Phones provided an affidavit
7 on November 18, 2008 stating the carrier will: (1) provide services in a timely
8 manner throughout its designated service area pursuant to 103-690 C(a)(1)(A)(1);
9 (2) provide equal access to long distance carriers pursuant to 103-690 C(a) (5); (3)
10 offer services supported by the universal service support mechanisms by using its
11 own facilities or a combination of its own facilities and resale of another carrier's
12 services pursuant to 103-690 C(a) (6); and (4) advertise in media of general
13 distribution the availability of service, Lifeline services and applicable charges
14 pursuant to 103-690 C(a) (7). This affidavit addressed most of the outstanding
15 Application requirements. In addition, the Company through its direct testimony
16 filed the required two-year plan describing the Company's plans for advertising
17 and outreach programs for identifying, qualifying and enrolling eligible
18 participants in the Lifeline and Link Up program. The Lifeline Plan was attached
19 to Mr. Green's direct testimony as Exhibit C.

20 **Q. DOES ORS RECOMMEND APPROVAL OF FAST PHONES'**
21 **APPLICATION FOR ETC DESIGNATION?**

1 A. No. Generally, ORS supports ETC designation in South Carolina,
2 especially in cases where such designation will expand the availability of the
3 Lifeline and Link up programs to eligible consumers. As of the date of this
4 testimony, Fast Phones is not compliant with all Commission requirements for
5 telecommunications carriers operating in South Carolina. Fast Phones has not
6 filed quarterly Service Quality Reports with ORS as required by 26 Code Ann.
7 Reg. § 103-618 which demonstrate Fast Phones satisfies consumer protection and
8 quality of service standards. In addition, Fast Phones failed to respond to an ORS
9 request to audit its books and records in January 2008. As the USF Fund
10 Administrator, ORS randomly audits telecommunications carriers to ensure the
11 carrier is complying with the Commissions intrastate USF guidelines.
12 Information requests were sent to the Company on January 31, 2008, and by
13 certified mail on February 29, 2008.

14 In light of the fact that Fast Phones is non-compliant with Commission
15 regulations and guidelines, ORS cannot support Fast Phones' application for ETC
16 designation.

17 **Q. DO YOU HAVE ANY COMMENTS CONCERNING FAST PHONES**
18 **TWO YEAR PLAN IDENTIFYING, QUALIFYING, AND ENROLLING**
19 **PARTICIPANTS IN THE LIFELINE AND LINK UP PROGRAM?**

20 A. Yes. As part of Fast Phones' Application, the Company filed a tariff
21 which outlined eligibility criteria for the Company's Lifeline offering. The criteria
22 included in the tariff are consistent with those approved for all non-BellSouth

1 companies. However, the language used in the Company's Lifeline Plan makes
2 reference to income eligibility criteria which are inconsistent with the Company's
3 proposed tariff. I suggest that the Company modify its Plan language to have it
4 conform to the eligibility criteria stated in the proposed tariff.

5 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

6 **A.** Yes it does.

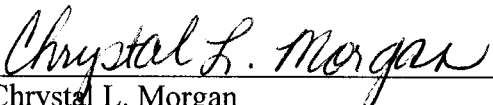
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-314-C

IN RE:)	
Application of New Dimension Communications,)	CERTIFICATE OF
Inc. d/b/a Fast Phones for Certification as an)	SERVICE
Eligible Telecommunications Carrier)	

This is to certify that I, Chrystal L. Morgan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **DIRECT TESTIMONY OF JAMES M. MCDANIEL** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

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Chrystal L. Morgan

December 19, 2008
Columbia, South Carolina